

The House Committee on Industrial Relations offers the following substitute to SB 239:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to provide a definition for a certain term; to provide for the applicability of Chapter 9 of Title 34; to provide for the dismissal of certain claims in which no hearing has been held after a certain time period; to extend the period of time in which the employer has to select a rehabilitation supplier; to specify that examinations of the employee may include physical, psychiatric, and psychological examinations; to provide that charges for prescriptions and charges for other items and services shall be subject to the approval of the State Board of Workers' Compensation; to increase the weekly wage amounts for compensation for total disability; to increase the maximum weekly benefit for compensation for temporary partial disability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended by revising subsection (a) of Code Section 34-9-2, relating to the applicability of the chapter to employers and employees, as follows:

"(a)(1) As used in this subsection, the term 'farm laborer' shall include, without limitation, any person employed by an employer in connection with the raising and feeding of and caring for wildlife, as such term is defined in paragraph (77) of Code Section 27-1-2.

(2) This chapter shall not apply to common carriers by railroad engaged in intrastate trade or commerce; nor shall this chapter be construed to lessen the liability of such common carriers or take away or diminish any right that any employee of such common carrier or, in case of his or her death, the personal representative of such employee may have under the laws of this state; nor shall this chapter apply to employees whose employment is not in the usual course of trade, business, occupation, or profession of the

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1 employer or not incidental thereto; nor to farm laborers or domestic servants; nor to  
2 employers of such employees; nor to any person, firm, or private corporation, including  
3 any public service corporation, that has regularly in service less than three employees in  
4 the same business within this state, unless such employees and their employers  
5 voluntarily elect to be bound; nor to any person performing services as a licensed real  
6 estate salesperson or associate broker who has a written contract of employment  
7 providing that he or she shall perform all services as an independent contractor."

## 8 SECTION 2.

9 Said chapter is further amended by revising Code Section 34-9-100, relating to the filing of  
10 claims with the State Board of Workers' Compensation and the dismissal of stale claims, as  
11 follows:

12 "34-9-100.

13 (a) Subject to Code Section 34-9-82, a claim for compensation may be filed with the board  
14 at any time following an injury or death. The board and its administrative law judges shall  
15 have full authority to hear and determine all questions with respect to such claims.

16 (b) The board shall make or cause to be made any investigation or mediation it considers  
17 necessary and, upon its own motion or application of any interested party, order a hearing  
18 thereon and assign the claim to an administrative law judge for review. Furthermore, the  
19 board may direct the parties to participate in mediation conducted under the supervision  
20 and guidance of the board.

21 (c) ~~On or after July 1, 1985, a~~ Any application for hearing filed with the board pursuant  
22 to this Code section, on or after July 1, 1985, but prior to July 1, 2007, for which no  
23 hearing is conducted for a period of five years shall automatically stand dismissed.

24 (d)(1) For injuries occurring on or after July 1, 2007, any claim filed with the board for  
25 which neither medical nor income benefits have been paid shall stand dismissed with  
26 prejudice by operation of law if no hearing has been held within five years of the alleged  
27 date of injury.

28 (2) This subsection shall not apply to a claim for an occupational disease as defined in  
29 Code Section 34-9-280.

30 (3) The form provided by the board for use in filing a workers' compensation claim shall  
31 include notice of the provisions of this subsection.

32 (e) Any claim, notice, or appeal required by this chapter to be filed with the board shall be  
33 deemed filed on the earlier of:

34 (1) The date such claim or notice is actually received by the board; or

(2) The official postmark date such claim or notice was mailed to the board, properly addressed with postage prepaid, by registered or certified mail or statutory overnight delivery."

### SECTION 3.

Said chapter is further amended by revising subsection (a) of Code Section 34-9-200.1, relating to rehabilitation benefits and rehabilitation suppliers, as follows:

"(a) In the event of a catastrophic injury, the employer shall furnish the employee entitled to benefits under this chapter with reasonable and necessary rehabilitation services. The employer either shall appoint a registered rehabilitation supplier or give reasons why rehabilitation is not necessary within 48 hours of the employer's acceptance of the injury as compensable or notification of a final determination of compensability, whichever occurs later. If it is determined that rehabilitation is required under this Code section, the employer shall have a period of ~~15~~ 20 days from the date of notification of that determination within which to select a rehabilitation supplier. If the employer fails to select a rehabilitation supplier within such time period, a rehabilitation supplier ~~will~~ shall be appointed by the board to provide services at the expense of the employer. The rehabilitation supplier appointed to a catastrophic injury case shall have the expertise which, in the judgment of the board, is necessary to provide rehabilitation services in such case."

### SECTION 4.

Said chapter is further amended by revising subsections (a) and (e) of Code Section 34-9-202, relating to an examination of an injured employee, as follows:

"(a) After an injury and as long as he or she claims compensation, the employee, if so requested by his employer, shall submit himself to examination, at reasonable times and places, by a duly qualified physician or surgeon designated and paid by the employer or the board. Such examination may include physical, psychiatric, and psychological examinations."

"(e) Notwithstanding the rights afforded an employee under Code Section 34-9-201, the employee, after an accepted compensable injury and within 120 days of receipt of any income benefits, shall have the right to one examination at a reasonable time and place, within this state or within 50 miles of the employee's residence, by a duly qualified physician or surgeon designated by the employee and to be paid for by the employer. Such examination, of which the employer or insurer shall be notified in writing in advance, shall not repeat any diagnostic procedures which have been performed since the date of the employee's injury unless the costs of such diagnostic procedures which are in excess of

\$250.00 are paid for by a party other than the employer or the insurer. Such examination may include physical, psychiatric, and psychological examinations."

### SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 34-9-205, relating to board approval of physician's fees, hospital, and other charges, as follows:

"(a) Fees of physicians, ~~and~~ charges of hospitals, charges for prescription drugs, and charges for ~~and~~ other items and services under this chapter shall be subject to the approval of the State Board of Workers' Compensation. No physician, hospital, or other provider of services shall be entitled to collect any fee unless reports required by the board have been made."

### SECTION 6.

Said chapter is further amended by revising Code Section 34-9-261, relating to compensation for total disability, as follows:

"34-9-261.

While the disability to work resulting from an injury is temporarily total, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the employee's average weekly wage but not more than ~~\$450.00~~ \$500.00 per week nor less than ~~\$45.00~~ \$50.00 per week, except that when the weekly wage is below ~~\$45.00~~ \$50.00, the employer shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under this Code section shall be payable for a maximum period of 400 weeks from the date of injury; provided, however, that in the event of a catastrophic injury as defined in subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall be paid until such time as the employee undergoes a change in condition for the better as provided in paragraph (1) of subsection (a) of Code Section 34-9-104."

### SECTION 7.

Said chapter is further amended by revising Code Section 34-9-262, relating to compensation for temporary partial disability, as follows:

"34-9-262.

Except as otherwise provided in Code Section 34-9-263, where the disability to work resulting from the injury is partial in character but temporary in quality, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the difference between the average weekly wage before the injury and the average weekly wage the employee is able to earn thereafter; but not more than ~~\$300.00~~ \$334.00 per week for a period not exceeding 350 weeks from the date of injury."

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- SECTION 8.
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- All laws and parts of laws in conflict with this Act are repealed.